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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,745	07/09/2003	Shawn Anthony Hall	YOR920030155US1	2754
7590	08/31/2005		EXAMINER	CHERVINSKY, BORIS LEO
David Aker, Esq. 23 Southern Road Hartsdale, NY 10530			ART UNIT	PAPER NUMBER
			2835	
				DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.	Applicant(s)	
	10/616,745	HALL, SHAWN ANTHONY	
	Examiner Boris L. Chervinsky	Art Unit 2835	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 July 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 14 July 2005 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Specification

1. The amendment filed 07/14/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the raised floor, the tiles 45 and spacing 46 between the tiles 45 and the floor 47.

Applicant is required to cancel the new matter in the reply to this Office Action.

The drawings are also objected as containing new subject matter.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 6-13, 15 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Omori, JP 01089599A.

Omori discloses a cooling arrangement (see Fig. 6) for an electronic heat-producing devices 4 arranged in a row and spaced from adjacent units, sloped partitions 8 are disposed in the spacing between the adjacent devices forming first and second plenums which are complimentary in size and shape, the fluid moving apparatus, or plurality of fans 6 and 7 provide cooling air flow through the first plenum, through the heat producing devices and the second plenum; the electronic equipment 5 disposed in

racks. The newly added limitation regarding the matching the volumetric flow rate to the cross sectional area of the plenum is functional limitation which does not structurally distinguish the claimed invention from the prior art and basically involves proper sizing of structural elements to ensure efficient operation. The method steps of claim 25 are necessitated by the device structure as disclosed by Omori.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 6-13, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omori.

Omori discloses the claimed invention except a supporting floor, the space beneath the floor, and tiles with openings. The equipment that is disposed on the raised tiled floor is well known and is a common arrangement in the industry and is described in the reference in the instant application as known (see Disclosure, Page 16, lines 4-9). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to place the device as disclosed by Omori on the raised floor and to provide cooling medium therefrom. Omni does not show the second plenum being larger than the first plenum. It would have been an obvious matter of design choice to make the plenums of different size, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as

being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

6. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omori in view of Kondou et al.

Omori discloses the claimed invention except the curved partition. Kondou discloses the curved partition (see Fig. 12, 16, 19, 32). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a curved partition as disclosed by Kondou in the device disclosed by Omori to optimize airflow.

7. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omori in view of McKeen et al.

Omori discloses the claimed invention except a bend. McKeen discloses the partition having the bend (see Fig.). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the bend as disclosed by McKeen in the device disclosed by Omori in order to provide optimum airflow.

Response to Arguments

4. Applicant's arguments filed 7/14/05 have been fully considered but they are not persuasive. The functional limitation involving the matching of the cross sectional area to the volumetric air flow in order to provide minimum pressure drop does not structurally distinguish the claimed invention from the prior art and pertains to routine sizing for proper functionality.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris L. Chervinsky whose telephone number is 571-272-2039. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Feild can be reached on 571-272-2800 ext. 35. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**BORIS CHERVINSKY
PRIMARY EXAMINER**

Boris L. Chervinsky
8/30/15